FILED
U.S. DISTRICT COURT
DISTRICT OF NEW MEXICO

2011 FEB 16 AM 8: 43

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO CLERK-LAS CRUCES

UNITED STATES OF AMERICA,

      Plaintiff-Respondent,

v.

STEVE NATHANIEL JACKSON,

      Defendant-Movant.

CIV 10-713 RB/KBM
CR 06-1795 RB

ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

The Magistrate Judge filed her Proposed Findings and Recommended Disposition on January 7, 2011. See Doc. 10. I will consider the objections Defendant filed as timely based on the mailing date listed on his "certificate of service," *Doc. 11* at 10, and have carefully reviewed each objection *de novo*. *See Garcia v. City of Albuquerque*, 232 F.3d 760, 766-67 (10th Cir. 2000). I find none of the objections meritorious and that one of them warrants additional comment.

Defendant asserts that because "the government failed to get an affidavit from [trial counsel] stating the reason why certain investigations were unnecessary, then there is absolutely no way to say that [he] did anything close to an adequate investigation." *Doc. 11* at 1. As the Supreme Court recently reiterated, however, "*Strickland* . . . calls for an inquiry into the objective reasonableness of counsel's performance, not counsel's subjective state of mind."

Harrington v. Richter, ___ U.S. ___, ___, 130 S.Ct. 770, 790 (2011). It further noted that a

habeas court cannot "insist counsel confirm every aspect of the strategic basis for his or her

actions." *Id.* Moreover, the Magistrate Judge explained in detail why the basis for Defendant's

ineffectiveness claims were decided on direct appeal and, alternatively, did not result in

prejudice. I agree with her approach to the claims and analysis.

Wherefore,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Magistrate Judge's Proposed Findings and Recommended Disposition
    (Doc. 10) is ADOPTED;

2. Defendant's 2255 petition is dismissed; and

3. A final order and order denying of certificate of appealability enter concurrently
    herewith.

UNITED STATES DISTRICT JUDGE